

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission	)	
On Its Own Motion	)	
	)	
v.	)	ICC No.: 16-0091
	)	
North Shore Gas Company	)	
	)	
Reconciliation of revenues collected under	)	
Coal Tar riders with prudent costs associated	)	
with Coal Tar clean up expenditures	)	

**DIRECT TESTIMONY OF  
BRIAN F. BARTOSZEK**

- 1    Q.            Please state your name.
- 2    A.            My name is Brian F. Bartoszek
- 3    Q.            Please describe your educational background and employment history.
- 4    A.            I received a Bachelor of Science degree in Environmental Engineering
- 5                from Michigan Technological University in 1994. I began my career as a Staff
- 6                Engineer in 1994 with an environmental consulting firm where I remained
- 7                employed until 2004, leaving with the title of Senior Engineer. In August 2004 I
- 8                began employment with Wisconsin Public Service Corporation ("WPSC"), now an
- 9                affiliate of the Respondent, North Shore Gas Company ("Respondent", "North
- 10                Shore" or the "Company") as an Environmental Consultant. I became the
- 11                Manager of Remediation and Solid Waste in 2007. On February 21, 2007,
- 12                WPSC's then parent company, Integrys Energy Group, Inc.; ("Integrys"),
- 13                acquired The Peoples Gas Light and Coke Company ("Peoples") and its affiliates

14 including North Shore Gas y and then formed Integrys Business Support, LLC  
15 ("IBS") Peoples' affiliate service provider company. I then became the Manager  
16 of Remediation and Solid Waste for IBS. When WEC Energy Group, Inc.  
17 ("WEC") acquired Integrys and its subsidiaries on June 29, 2015, WEC changed  
18 IBS' name to WEC Business Services LLC ("WBS"). I am currently WBS'  
19 Manager of Remediation. In my prior position with IBS I have overseen, and in  
20 my current position with WBS I continue to oversee, certain environmental  
21 activities for both Peoples and North Shore along with former Integrys' and now  
22 WEC's other utility subsidiaries.

23 Q. What are your responsibilities as the Manager of Remediation?

24 A. As Manager, I have responsibility for the management of environmental  
25 activities conducted for Respondent by the Environmental Department. I  
26 managed these responsibilities exclusively beginning in July 2009 and am  
27 therefore familiar with all such activities that took place during the four quarters  
28 beginning January 1, 2015 and ending December 31, 2015, the reconciliation  
29 year for purposes of this proceeding ("Fiscal Year 2015").

30 Q. Please describe the environmental activities and responsibilities of the  
31 Environmental Department as they relate to the Company's former manufactured  
32 gas operations.

33 A. The Environmental Department has the primary responsibility for the  
34 oversight of the environmental operations of the Company. Personnel from the  
35 Environmental Department review and comment upon documents and technical  
36 materials that are prepared by the Company's environmental consultants and  
37 also review the invoices that those consultants submit to the Company for the

work that they perform. In addition, personnel from the Environmental Department oversee and assist the Company's environmental consultants in conducting field investigations.

Q. What is the purpose of your testimony?

A. My testimony is given for the purpose of describing the environmental activities that have given rise to the incremental costs that were recorded by North Shore under its Rider 11, "Adjustment for Incremental Costs of Environmental Activities," during Fiscal Year 2015.

Q. What is the nature of the incremental costs that Respondent records under Rider 11?

A. The incremental costs that North Shore records under its Rider 11 are the costs that it incurs in connection with the environmental activities that are required in order to comply with environmental laws and regulations. These incremental costs relate to manufactured gas operations that were formerly conducted by North Shore's corporate predecessors and affiliates.

Q. What is Respondent's policy on complying with environmental laws and regulations?

A. It is North Shore's policy to comply fully with environmental laws and regulations.

Q. What is North Shore's policy regarding the costs that are incurred as a result of its policy to fully comply with environmental laws and regulations?

A. It is the policy of North Shore to control such costs to the fullest possible extent. Because of this policy to control costs, North Shore will make expenditures only when it is determined to be prudent to do so.

62 Q. What standard does Respondent use in determining the prudence of the  
63 expenditures that it makes in complying with environmental laws and  
64 regulations?

65 A. In determining whether or not to make expenditures in complying with  
66 environmental laws and regulations, the Company uses the following standards:  
67 1) reasonable and appropriate business standards; 2) the requirements of other  
68 relevant state and/or federal authorities; 3) the minimization of costs to  
69 ratepayers in a manner that is consistent with safety, reliability and quality  
70 assurance; and 4) the facts that are known to the Company at the time that the  
71 expenditures are made.

72 Q. How does North Shore control the costs it incurs in connection with  
73 complying with environmental laws and regulations?

74 A. The most effective way for North Shore to control those costs is to be  
75 actively involved in the determinations that are made regarding the timing, choice  
76 and scope of environmental activities. This participation is necessary because of  
77 North Shore's desire to keep the cost of its service competitive.

78 Q. When did North Shore's corporate predecessors and affiliates conduct  
79 manufactured gas operations?

80 A. In North Shore's territory, gas was first manufactured in the 1880's. The  
81 changeover to natural gas began in 1947, when natural gas was made available  
82 through the interstate pipeline system.

83 Q. Does North Shore currently conduct any manufactured gas operations?

84 A. No. The gas supply that North Shore currently distributes to its customers  
85 is the natural gas obtained from the gas producing regions of the United States

86 and Canada that is transported to North Shore's service territory through the  
87 intrastate and interstate pipeline systems.

88 Q. Please describe the process by which North Shore's corporate  
89 predecessors and affiliates previously manufactured and stored gas.

90 A. Coal, coke (an energy rich material converted from coal) and oil were the  
91 primary raw materials in the manufacturing processes. Depending upon the type  
92 of manufacturing process, coal or coke was loaded into ovens and heated,  
93 thereby producing a low-Btu gas. Oil was then added to enrich the heating value  
94 of the gas to the required level, which was approximately half the heating value  
95 of the natural gas that is distributed today. At this point in the manufacturing  
96 process, the gas stream passed through a variety of purifying processes in order  
97 to make the gas suitable for distribution. The manufactured gas was then stored  
98 in vessels, called holders, until it was distributed.

99 Q. Do the costs that are recovered through Rider 11 arise because of a  
100 failure to comply with laws in effect at the time the manufactured gas operations  
101 were conducted?

102 A. No. The incremental costs that North Shore incurs are the result of  
103 various duties and obligations that are imposed by laws and regulations enacted  
104 long after North Shore discontinued manufactured gas operations. The  
105 manufactured gas operations of North Shore's corporate predecessors and  
106 affiliates were conducted in accordance with then-existing industry standards.  
107 We have found no indication that those operations violated any laws in existence  
108 at that time.

109 Q. Please describe the types of costs that North Shore has typically incurred

during the course of its environmental activities.

A. Costs have been incurred, and continue to be incurred, in connection with a variety of environmental activities that are related to former manufactured gas operations. These activities can generally be divided into four phases.

First, there are those activities, which are conducted before the actual study of a site begins. These activities may include negotiations with the United States Environmental Protection Agency ("USEPA") or the Illinois Environmental Protection Agency ("IEPA"), as well as with other potentially responsible parties ("PRPs"). A PRP is a party that is potentially liable for any contamination, or portion of any contamination that might be present at a site. Therefore, a PRP is potentially liable for the cost of any necessary investigative and remedial work at the site. Costs which are associated with the negotiation of a consent decree or of any other formal agreement may also be incurred during the first phase.

Second, an actual study of the site is conducted in order to determine the nature and extent of the contamination that is present and to identify and develop alternative remediation strategies.

Third, a remediation strategy is chosen which may entail public hearings conducted by the USEPA or the IEPA.

Fourth, the remediation strategy is implemented and monitored.

The activities that are conducted during each of these phases require a highly technical and specialized level of experience and expertise that is obtained from carefully chosen environmental engineers and consultants, laboratory and testing services, law firms, and contractors who perform field work during the investigative and remedial phases. Substantial costs are incurred by the

134 Company as a result of the work that is performed by these vendors.

135 The Company may also incur costs because of the issuance of a  
136 judgment, or of an order entered by a court, or of a state or federal regulatory  
137 agency. In addition, costs may arise from activities related to the identification of  
138 PRPs and insurance carriers and in connection with cost recovery litigation  
139 against them.

140 Q. What is Respondent's policy with regard to PRPs and insurance carriers?

141 A. It is the Company's policy to make all reasonable efforts necessary to  
142 vigorously pursue recovery of incremental costs from PRPs and insurance  
143 carriers that are incurred as a result of environmental activity.

144 Q. Does the Company incur any other types of costs in connection with  
145 environmental activities at its sites?

146 A. Yes. With respect to property acquired before October 1, 2005, the  
147 Company has incurred and will continue to incur costs in connection with the  
148 acquisition and subsequent ownership of all or a portion of a site. The purpose of  
149 such an acquisition is to enable the Company to better control the timing and  
150 extent of remediation of the property which it acquires and to eliminate or reduce  
151 the potential for various types of claims associated with the property. The  
152 Company bases its decision to purchase the property after evaluating some or all  
153 of the following factors: (1) information about market value of the property without  
154 consideration for environmental factors; (2) nature and extent of contamination;  
155 (3) range of remedial levels and associated costs; (4) litigation costs and  
156 potential litigation outcomes; (5) timing of remedial expenditures; (6) claims for  
157 reimbursement of technical and legal fees associated with the review of

environmental reports; (7) claims for lease payments or access payments during remediation; (8) claims for reimbursement of business interruption and relocation costs; and (9) claims for reimbursement of costs associated with the management of contaminated soil and groundwater remaining on the property after remediation.

Q. What does the Company do with any income which it realizes in connection with a property which it has acquired under the circumstances described above?

A. In the event that the Company realizes income on a property which it has acquired (through sale, lease or otherwise), it credits the income back to the ratepayer under Rider 11.

Q. Does Respondent incur costs in connection with environmental activities that it does not recover under Rider 11?

A. Yes. The in-house environmental engineers, attorneys and regulatory personnel of WBS, North Shore's corporate affiliate, are actively involved in the Company's environmental activities. The Company incurs costs for wages or salaries of these employees in connection with their environmental-related activities. These costs are not "incremental costs" under Rider 11, and therefore are not recoverable by the Company under Rider 11.

Q. Please describe Respondent's Exhibit 1.

A. Respondent's Exhibit 1 includes North Shore's verified report regarding its Incremental Costs of Environmental Activities, which was filed with the Illinois Commerce Commission on February 16, 2015 pursuant to the Commission's Order dated November 8, 1991 in Docket 91-0010 and Section D of Rider 11 of



the Company's Schedule of Rates. Respondent's Exhibit 1 details the incremental costs of environmental activities that Respondent incurred during the quarter ended December 31, 2015, during Fiscal Year 2015, and cumulative through December 31, 2015. Also included in Respondent's Exhibit 1 is the related certification by North Shore's independent public accountant, Deloitte & Touche, LLP, as required by the Company's Rider 11.

Page 5 of Respondent's Exhibit 1 consists of a "Statement of Activity in Account 182.3, Other Regulatory Assets, Quarter Ended December 31, 2015, Fiscal Year 2015, and Cumulative Through December 31, 2015." Line 1 of Column C shows that Respondent had a balance at the beginning of Fiscal Year 2015 in Account 182.3 of \$11,319,062.95 which represents environmental costs incurred prior to Fiscal Year 2015 and which had yet to be recovered. Line 4 of Column C represents increase of \$1,108,892.34 which was incurred during Fiscal Year 2015 as explained later in my testimony. Line 7 of Column C represents a decrease to the account of \$10,590,133.33 that was recovered from ratepayers during Fiscal Year 2015 through operation of Rider 11. Line 10 of Column C represents a credit (decrease) of \$0 for recoveries through the settlement fund, which I will discuss later in my testimony. Line 17 of Column C represents the Fiscal 2015 Year-end balance in the account of \$1,837,821.96. This balance will remain in the account until offset by future Settlement Fund recoveries or until recovered through rates.

Page 6 of Respondent's Exhibit 1 consists of a "Statement of Activity in the Settlement Fund, Quarter Ended December 31, 2015, Fiscal Year 2015 and Cumulative Through December 31, 2015."

Page 7 consists of a "Summary of Incremental Costs, Quarter Ended December 31, 2015, Fiscal Year 2015, and Cumulative through December 31, 2015." Column D shows the Fiscal Year 2015 a total of \$1,108,892.34 shown in Line 11, broken down by site credits and costs, or by other category for those costs and credits that are not attributable to a specific site.

Q. Please describe the Settlement Fund.

A. On February 26, 1999, the Commission, in Docket R-18957, granted North Shore's Request for Special Permission to revise Rider 11 to add provisions relating to amounts received from insurance carriers or other entities in settlement of the Company's claims where the payments apply to future costs. The occasion for the Company's filing was the receipt of a substantial payment by an insurance carrier in settlement of claims made in a pending lawsuit. The Commission approved North Shore's proposal to establish a settlement fund to identify and track the amounts arising from settlements with insurance carriers or other entities that are available to pay costs otherwise recoverable under Rider 11. Beginning with incremental costs incurred in December 1998, 50% of such costs are recovered through the settlement fund and 50% through Rider 11.

Q. Did any Settlement Fund recoveries occur during Fiscal Year 2015?

A. No. Respondent did not have any recoveries from the Settlement Fund during Fiscal Year 2015.

Q. Respondent's Exhibit 1 shows that during Fiscal Year 2015, Respondent incurred a total of \$361,986.38 in incremental costs for environmental activities related to the North Plant. Please describe the activities that resulted in North Shore incurring incremental costs related to the North Plant during Fiscal Year

230 2015.

231 A. These incremental costs are primarily attributable to investigation and  
232 remediation activities performed by the Company's outside environmental  
233 consultants and for professional services provided by outside legal counsel.  
234 Costs were incurred for real estate taxes accrued on the property previously  
235 purchased under the Rider prior to October 1, 2005, for disposal of  
236 environmental waste material by an outside waste disposal company and  
237 grounds maintenance.

238 Q. Respondent's Exhibit 1 shows that during Fiscal Year 2015, Respondent  
239 incurred a total of \$75,190.44 in incremental costs for environmental activities  
240 related to the Waukegan Coke Plant. Please describe the activities that resulted  
241 in North Shore incurring incremental costs related to the Waukegan Coke Plant  
242 during Fiscal Year 2015.

243 A. These incremental costs were primarily incurred for remediation activities  
244 performed by the Company's outside environmental consultants and for  
245 professional services provided by outside legal counsel. Costs were also  
246 incurred for disposal of environmental waste materials. Because the Company  
247 must first pay GM's half share of environmental costs before the Company  
248 receives reimbursement through the bond from the surety, the Company incurred  
249 certain costs for GM's half share for which the Company continues to expect to  
250 be reimbursed for GM's half share from the surety bond funds.

251 Q. Respondent's Exhibit 1 shows that during Fiscal Year 2015, Respondent  
252 incurred a total of \$426,228.24 in incremental costs for environmental activities  
253 related to the South Plant. Please describe the activities that resulted in North

Shore incurring incremental costs related to the South Plant during Fiscal Year 2015.

A. Costs were incurred primarily in connection with investigation and remediation activities performed by the Company's outside environmental consultants. Additional costs were incurred for real estate taxes accrued on the property previously purchased under the Rider prior to October 1, 2005, professional services provided by outside legal counsel, professional services supervised under the USEPA, disposal of environmental waste material by an outside waste disposal company and grounds maintenance.

Q. Respondent's Exhibit 1 shows that during Fiscal Year 2015, Respondent incurred \$31,125.29 in General and Unallocated Costs under Rider 11 for environmental activities. Please describe the activities that gave the General and Unallocated Costs.

A. The General and Unallocated Costs reflected in Exhibit 1 were primarily incurred for professional services by outside legal counsel, outside environmental consultants, and other miscellaneous charges.

Q. According to Respondent's Exhibit 1, Respondent incurred \$214,361.99 in Carrying Charges. Please explain.

A. Pursuant to Respondent's Rider 11 and the Commission's Order on Remand in Consolidated Dockets 91-0080, *et al.*, Respondent is entitled to recover carrying charges on its unrecovered balance of incremental costs of environmental activities. The amount represents the cost of carrying amounts in the deferred account before recovery through the Settlement Fund and application of the adjustments determined under Rider 11. The \$214,361.99 was

278 calculated and recorded pursuant to Rider 11.

279 Q. In the Initiating Order for this proceeding, the Commission ordered the  
280 Company to include as part of its filing cumulative totals of recoveries by  
281 customer class. Has the Company provided this data?

282 A. Yes. Respondent's Exhibit 2 presents by customer class the cumulative  
283 total of recoveries through rates of \$71,879,652.25 as detailed in Line 7, Column  
284 D, Page 5 of Exhibit 1.

285 Q. In Ordering Paragraph No. (8) in the Final Order entered in Docket No. 04-  
286 0111, the Commission directed the Company to provide information in its direct  
287 testimony regarding the status of all properties for which purchase costs were  
288 previously recovered through Rider 11. Has the Company provided this data?

289 A. Yes. Respondent's Exhibit 3 presents all land acquisitions for  
290 environmental remediation purposes that were made prior to October 1, 2005  
291 and for which recovery was allowed under Rider 11.

292 Q. Once again, since October 1, 2005, has the Company made any  
293 additional land acquisitions for environmental remediation purposes?

294 A. No.

295 Q. How does the Company plan to treat any costs associated with land  
296 acquisitions for environmental remediation purposes incurred after October 1,  
297 2005?

298 A. Pursuant to the Commission's Order, as outlined in Ordering Paragraph  
299 No. 6 in the Final Order entered in Docket 04-0111, if any land purchases are  
300 made, any costs associated with land acquisitions for environmental remediation  
301 purposes shall be treated as a rate base asset in a rate case.

302 Q. In the Initiating Order for this proceeding the Commission ordered the  
303 Company to provide notice of its filing in the manner that notice be made for a  
304 general rate increase prescribed under Part 255 of the Illinois Administrative  
305 Code. Will the Company comply with those filing requirements?

306 A. Yes.

307 Q. Does this conclude your direct testimony?

308 A. Yes, it does.

